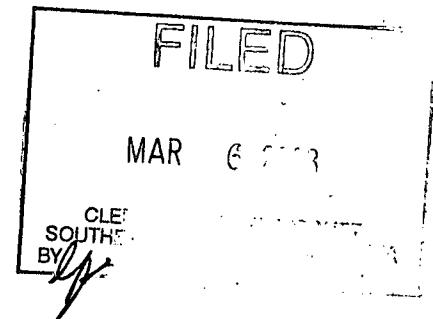


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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
08CR622-WQH
11 UNITED STATES OF AMERICA,) Magistrate Case No. 08MJ0555
12 Plaintiff,)
13 v.)
14 MARIO RODRIGUEZ,)
15 Defendant.)
16 _____
STIPULATION OF FACT AND JOINT
MOTION FOR RELEASE OF
MATERIAL WITNESS(ES) AND
ORDER THEREON
(Pre-Indictment Fast-Track Program)

17 IT IS HEREBY STIPULATED AND AGREED between the plaintiff, UNITED STATES
18 OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and
19 Caroline P. Han, Assistant United States Attorney, and defendant MARIO RODRIGUEZ, by and
20 through and with the advice and consent of Gerard J. Wasson, counsel for defendant, that:

21 1. Defendant agrees to execute this stipulation on or before the first preliminary hearing
22 date and to participate in a full and complete inquiry by the Court into whether defendant knowingly,
23 intelligently and voluntarily entered into it. Defendant agrees further to waive indictment and plead
24 guilty to the pre-indictment information charging defendant with a non-mandatory minimum count
25 of Transportation of Aliens and Aiding and Abetting, in violation of 8 U.S.C. §1324(a)(1)(A)(ii)
26 and (v)(II).

27 //

28 CPH:es:2/26/08

1 2. Defendant acknowledges receipt of a plea agreement in this case and agrees to
2 provide the signed, original plea agreement to the Government not later than five business days
3 before the disposition date set by the Court.

4 3. Defendant agrees to plead guilty to the charge pursuant to the plea agreement on or
5 before **March 26, 2008**.

6 4. The material witnesses, Gonzalo Gonzalez-Palacio, Jose Felix Flores-Gonzalez and
7 Miguel Flores-Gonzalez, in this case:

8 a. Are aliens with no lawful right to enter or remain in the United States;
9 b. Entered or attempted to enter the United States illegally on or about
10 February 22, 2008;

11 c. Were found in a vehicle driven by defendant in or near Boulevard, California
12 and that defendant knew or acted in reckless disregard of the fact that they were aliens with no
13 lawful right to enter or remain in the United States;

14 d. Were paying \$1,500 - \$2,000 to others to be brought into the United States
15 illegally and/or transported illegally to their destination therein; and,

16 e. May be released and remanded immediately to the Department of Homeland
17 Security for return to their country of origin.

18 5. After the material witnesses are ordered released by the Court pursuant to this
19 stipulation and joint motion, if defendant does not plead guilty to the charge set forth above, for any
20 reason, or thereafter withdraws his guilty plea to that charge, defendant agrees that in any
21 proceeding, including, but not limited to, motion hearings, trial, sentencing, appeal or collateral
22 attack, that:

23 a. The stipulated facts set forth in paragraph 4 above shall be admitted as
24 substantive evidence;

25 b. The United States may elicit hearsay testimony from arresting agents
26 regarding any statements made by the material witness(es) provided in discovery, and such

1 testimony shall be admitted as substantive evidence under Fed. R. Evid. 804(b)(3) as statements
2 against interest of (an) unavailable witness(es); and,

3 c. Understanding that under Crawford v. Washington, 124 S. Ct. 1354 (2004),
4 “testimonial” hearsay statements are not admissible against a defendant unless defendant confronted
5 and cross-examined the witness(es) who made the “testimonial” hearsay statements, defendant
6 waives the right to confront and cross-examine the material witness(es) in this case.

7 6. By signing this stipulation and joint motion, defendant certifies that defendant has
8 read it (or that it has been read to defendant in defendant's native language). Defendant certifies
9 further that defendant has discussed the terms of this stipulation and joint motion with defense
10 counsel and fully understands its meaning and effect.

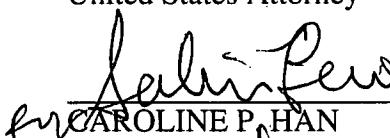
11 Based on the foregoing, the parties jointly move the stipulation into evidence and for the
12 immediate release and remand of the above-named material witness(es) to the Department of
13 Homeland Security for return to their country of origin.

14 It is STIPULATED AND AGREED this date.

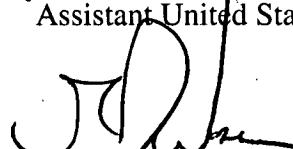
15 Respectfully submitted,

16 KAREN P. HEWITT
17 United States Attorney

18 Dated: 3-8-08


~~KAREN P. HAN~~
CAROLINE P. HAN
Assistant United States Attorney

19
20 Dated: 3. 5. 08


GERARD J. WASSON
Defense Counsel for Rodriguez

21 Dated: 3. 5. 08


X
MARIO RODRIGUEZ
Defendant

22
23
24 Stipulation of Fact and Joint Motion for Release of
25 Material Witness(es) And Order Thereon in
26 United States v. Mario Rodriguez

ORDER

2 Upon joint application and motion of the parties, and for good cause shown,
3 **THE STIPULATION** is admitted into evidence, and,
4 **IT IS ORDERED** that the above-named material witness(es) be released and remanded
5 forthwith to the Department of Homeland Security for return to their country of origin.
6 **SO ORDERED.**

SO ORDERED.

Dated: 3-6-08


John H. Thomas